



MIKE ENDSLEY

STATE REPRESENTATIVE • 26TH ASSEMBLY DISTRICT

Representative Mike Endsley

Testimony before the Assembly Committee on Criminal Justice and Corrections

2011 Assembly Bill 164

September 8, 2011

Chairman and members, I appreciate the opportunity to speak to you today. I am proud to author a bill intended to further protect police officers who tirelessly work to prevent crime, maintain order, and provide a safe environment for our local communities.

While in the line of duty law enforcement officers, unfortunately, have seen a rise in the amount of injuries they endure while apprehending suspects and keeping our neighborhoods safe. According to the United States Department of Labor, in 2010 there was a six percent increase in the number of work-related fatal injuries among protective service occupations. The increase was led by fatalities among police officers which rose 40 percent in 2010. Furthermore between 2008 and 2009 police and sheriff's patrol officers had the highest number of incidence cases that resulted in illness or non-fatal injuries, reflecting a 30 percent increase of incidence cases from 2008. When grouped with fire-fighter statistics these two occupations in public safety account for 23 percent of all days-away-from work cases in local government.

In 2009 Senators Sullivan and Representative Danou introduced Assembly Bill 269 to give law enforcement officers recourse against the rise in injury rates that occur when police officers pursue and apprehend suspects. AB 269 would make a class H felony if: a person knowingly resists or obstructs an officer while the officer is acting in an official capacity and with lawful authority AND causes substantial bodily harm to the officer. This bill passed the Legislature and became 2009 Wisconsin Act 251. Unfortunately, this bill created a loophole through its definition of substantial bodily harm. Substantial bodily harm was defined as meaning "bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; a fracture of a bone; a broken nose; a burn; temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth."

Soon after this piece of legislation the Manitowoc Police Department had an officer suffer a torn meniscus while chasing after a suspect, forcing him off the job for several weeks. After checking with the DA, it was determined that a torn meniscus did not fall under the category of "substantial bodily harm." Assembly Bill 269's "substantial bodily harm" definition created a loophole for soft tissue injuries.

Assembly Bill 164 is intended to close this loophole and fix this legislative oversight of 2009 Wisconsin Act 251. Assembly Bill 164 simply allows suspects to be charged with a



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Class H felony if they cause an officer to suffer a soft tissue injury while resisting or obstructing arrest. Soft tissue injuries would include torn muscles, ligaments, tendons, etc.

In the Senate, a Substitute Amendment was adopted in a bi-partisan attempt to improve this piece of legislation and further incorporate public testimony from the Senate Committee. A representative from Senator Liebham's office will be explaining what the Substitute Amendment is designed to accomplish. I would encourage you to support this substitute amendment.

This bill is a common sense way to protect and possibly help reduce police officer injuries that can be devastating for the individuals involved and even have the potential to end careers through soft tissue injuries. The Senate companion to AB 164 (SB 109) was adopted by the Senate on a voice vote. I would encourage you to support this legislation to help protect our officers who serve and protect our neighborhoods.

I would be happy to answer questions at this time.



Joe Leibham

STATE SENATOR

**Assembly Bill 164: Soft Tissue Injury to an Officer
Testimony by State Senator Joe Leibham
Assembly Committee on Criminal Justice and Corrections
September 8, 2011**

Chairman Bies and Committee Members,

Thank you for holding this hearing today on what has unfortunately become an important issue for law enforcement officers around the state. Every day, these individuals work hard to protect us and our families by investigating crimes and taking sometimes dangerous individuals into custody.

Last session, the legislature recognized the need to give law enforcement officers recourse in these situations by passing 2009 Wisconsin Act 251, which allowed for felony charges against suspects causing "substantial bodily harm" to officers while in the process of resisting or obstructing arrest. This bipartisan legislation was urgently needed to protect our increasingly vulnerable officers on the streets.

However, based on the recent experiences of officers in the Manitowoc Police Department, it is apparent that Act 251 leaves unaccounted for soft tissue injuries to officers while in the process of resisting or obstructing arrest. Quite simply, a soft tissue injury includes torn muscles, ligaments, tendons or similar tissues. While not covered under the provisions of Act 251, these injuries can be just as devastating as a broken bone and can jeopardize an officer's career.

This is the matter before you today as you consider AB 164. I would encourage your strong support for this legislation. The Senate companion to AB 164, SB 109, was adopted by the Senate on a voice vote. In addition, I would encourage your committee to support the language of Senate Substitute Amendment 1 to this bill. SSA 1 represents a bipartisan effort to improve this legislation by incorporating public testimony from the Senate Committee.

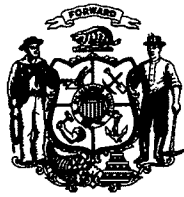
The substitute amendment does three things. First, it incorporates all of the language of the bill itself. This will allow Class H felony charges for suspects who cause a soft tissue injury to an officer while resisting or obstructing arrest. Second, it establishes a Class G felony for suspects causing "great bodily harm" to an officer while resisting or obstructing arrest. This provision corrects a further loophole in Act 251, which penalizes unintentional "substantial bodily harm" to an officer but not "great bodily harm", a medically more severe condition. Finally, the substitute amendment extends the protections of the bill to individuals in our prisons system by creating a Class H felony for soft tissue injuries to an officer, employee, visitor, or inmate in one of our prisons.

I hope you will agree that the provisions of AB 164 are urgently needed to ensure the protection of our law enforcement officers. I strongly encourage your support for this legislation and the language of the Senate Substitute Amendment. Our officers cannot wait. I would be happy to answer any questions.

Thank you.

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BOB ZIEGELBAUER

STATE REPRESENTATIVE • TWENTY FIFTH ASSEMBLY DISTRICT

Committee on Criminal Justice and Corrections

Rep. Garey Bies, Chair

Thursday, September 8, 2011, 10:00 AM

300 Northeast

Support for AB 164 / SB 109

Dear Chairman Bies and Committee Members:

Senator Joe Leibham, Representative Mike Endsley, and I have introduced AB 164 / SB 109, relating to soft tissue injury to a law enforcement officer when resisting or obstructing arrest, at the request of the Manitowoc Police Department. Recently, a member of the Manitowoc PD suffered a torn meniscus in the process of taking an individual into custody who was resisting arrest.

Last session, the Legislature acted to increase protection of our police officers in situations like this by passing 2009 Wisconsin Act 251. This legislation gave police departments the tools necessary to protect their officers by allowing them to issue Class H felony charges to suspects who intentionally or unintentionally caused "substantial bodily harm" to an officer by resisting arrest.

However, under 2009 Act 251, officers who suffer soft tissue injuries in these situations, such as a torn meniscus or general muscle, tendon, or ligament damage, was not included in the protections that the Act established. In response to this omission, AB 164 / SB 109 were introduced.

As you may know, SB 109 passed the Senate with Senate Substitute Amendment 1 to SB 109. Per the 6/16/11 Legislative Council Memo:

Senate Substitute Amendment 1 maintains the language of Senate Bill 109 to specify that causing a soft tissue injury to an officer while resisting or obstructing an officer in the officer's official capacity is a Class H felony, and adds causing great bodily harm in that circumstance as a Class G felony.

The substitute amendment also specifies that causing a soft tissue injury, in addition to the current basis of causing bodily harm, when any prisoner confined to a state prison or other state, county, or municipal detention facility intentionally injures an officer, employee, visitor, or other inmate of the facility is a Class H felony.

I support making this change to AB 164 as well.

Thank you for your consideration. I am happy to answer your questions at this time.

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